

IOWA ETHICS AND CAMPAIGN DISCLOSURE BOARD

IN THE MATTER OF:

WAYNE GROOTERS, Lyon County
Auditor

CASE No. 2012 IECDB 07

DISMISSAL

On this 31st day of May, 2012, a complaint filed against Lyon County Auditor Wayne Grooters came before the Iowa Ethics and Campaign Disclosure Board ("Board"). For the reasons that follow, the Board dismisses the complaint.

BACKGROUND

Glenn Anderson filed a complaint against Mr. Grooters on May 9, 2012 alleging Mr. Grooters used government resources for political purposes in violation of Iowa Code section 68A.505. Mr. Grooters is the retiring Lyon County Auditor. Mr. Anderson is a candidate for Auditor. The complaint alleged Mr. Grooters had a meeting in his government office with an Anderson supporter. The complaint alleged Mr. Grooters made disparaging remarks about Mr. Anderson and encouraged this supporter to support another candidate.

ANALYSIS

The Board must first determine whether the complaint is legally sufficient. A legally sufficient complaint must allege all of the following:

- a. Facts that would establish a violation of a provision of chapter 68A, chapter 68B, section 8.7, or rules adopted by the board.
- b. Facts that would establish that the conduct providing the basis for the complaint occurred within three years of the complaint.
- c. Facts that would establish that the subject of the complaint is a party subject to the jurisdiction of the board.

Iowa Code § 68B.32B(4). If the Board determines the complaint is legally sufficient, it shall order an investigation. *Id.* § 68B.32B(6). If the Board determines that none of the allegations contained in the complaint are legally sufficient, the complaint shall be dismissed. *Id.*

The complaint against Mr. Grooters alleged conduct that occurred this year. The Board has jurisdiction to consider a complaint alleging any person violated chapter 68A of the Code of Iowa. *See id.* § 68B.32B(1). The only remaining question is whether the complaint alleged facts that would establish a violation of Iowa Code chapter 68A.

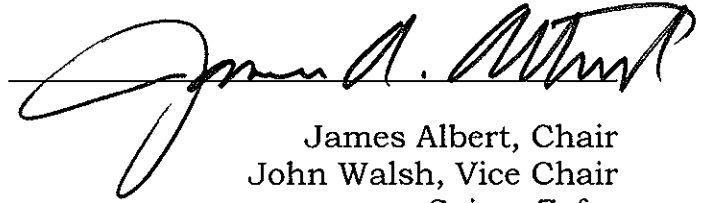
The relevant section of chapter 68A—section 68A.505—prohibits the use of public resources for political purposes. “Public resources” is broadly defined to mean “the moneys, time, property, facilities, equipment, and supplies of the executive branch of state government, a county, city, public school, or other political subdivision.” Iowa Admin. Code r. 351—5.3. “Political purposes” means “the express advocacy of a candidate or ballot issue.” Iowa Code § 68A.102(19). “Express advocacy” means a campaign contribution or a communication that contains “explicit words that unambiguously indicate the communication is recommending or supporting a particular outcome in the election with regard to any clearly identified candidate or ballot issue.” *Id.* § 68A.102(14).

The Board finds the complaint alleged facts that would establish a violation of section 68A.505. Government officials and employees may not use a government office to engage in express advocacy. Telling someone to support one candidate and discourage the support of another candidate meets the definition of express advocacy.

The Board finds the complaint is legally sufficient. Nevertheless, the Board determines it is appropriate at this time to dismiss the complaint. Mr. Grooters contacted the Board’s staff upon receiving a copy of the complaint. He acknowledged meeting with Mr. Anderson’s supporter in his office. He further acknowledged saying critical things about Mr. Anderson and disputing claims Mr. Anderson made in his campaign literature. Mr. Grooters denied telling the Anderson supporter who to vote for or not support in the upcoming election. In order to expedite this complaint, the Board’s staff contacted the Anderson supporter. The Anderson supporter said he is friends with both Mr. Anderson and Mr. Grooters and did not want to be involved with the complaint.

The Board does not believe further investigating this matter would be fruitful. Given that the Anderson supporter is a reluctant witness and Mr. Grooters is retiring, we believe the appropriate disposition of this complaint is dismissal.

By direction of the Board

A handwritten signature in black ink, appearing to read "James A. Albert", is written over a horizontal line.

James Albert, Chair
John Walsh, Vice Chair
Saima Zafar
Carole Tillotson
Jonathan Roos
Mary Rueter